HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.16187 of 1996

Between:

G. Yadi Reddy & others. …Petitioners.

AND

Special Officer & Competent Authority,
Urban Land Ceiling, Hyderabad & another. … Respondents.

:: O R D E R ::

Counsel for the Petitioners : Sri N. Sridhar Reddy, Advocate representing Sri K. Raghuveer Reddy

Counsel for the Respondents : Sri P.V. Sanjay Kumar

28th JUNE 2006

This petition is directed against order dated 4-10-1995 passed by Special Officer-cum-Competent Authority, Urban Land Ceiling, Hyderabad under the Urban Land (Ceiling & Regulation) Act, 1976 (for short 'the Act').

Arguments in this case were partly heard on 8-6-2006 and again on 14-6-2006 and the case was adjourned for 21-6-2006 to enable the learned Government Pleader to produce the original record to show that notice issued under Section 8(1) read with Section 8(3) of the Act had, in fact, been served on the writ petitioners.

Today, Sri P.V. Sanjay Kumar appeared on behalf of the respondents and produced the original record to show that the notice issued by the Competent Authority had been served on the petitioners

by affixation because they refused to accept the notice which was sought to be served through the Enquiry Officer. The record also reveals that the notices sent to the petitioners by registered post had been returned with the report that the addressee has left. Thereafter, the same was sought to be served through the Enquiry Officer, but the petitioners refused to accept the same necessitating adoption of the procedure of service by affixation.

The record produced by Sri Sanjay Kumar was shown to the counsel for the petitioners, who swiftly made a request for grant of permission to his clients to withdraw the writ petition with liberty to them to avail alternative remedy of appeal under Section 33 of the Act.

Sri Sanjay Kumar opposed this request of the learned counsel for the petitioners by saying that after having enjoyed the fruits of ad interim order dated 12-8-1996 passed by this Court, the petitioners should not be given liberty to avail alternative remedy because dismissal of the writ petition is imminent in view of the false statement made in the affidavit of petitioner No.1 in regard to service of notice. Sri Sanjay Kumar further submitted that once the Court accepts the request of the learned counsel for the petitioners for grant of leave to his clients to withdraw the writ petition, a prayer for extending the interim order will immediately follow.

In the context of the last part of the submission of Sri Sanjay Kumara, Sri N. Sridhar Reddy gave out that he will not make a prayer for extending the interim order passed by this Court and would advise his clients to take a chance before the appellate authority.

Having considered the respective submissions and keeping in view the settled law that the High Court should not entertain petitions under Article 226 of the Constitution of India if an alternative remedy is available to the petitioner, I deem it proper to accept the request made by Sri N.Sridhar Reddy and grant leave to his clients to withdraw the writ petition with liberty to avail the alternative remedy of

appeal under Section 33 of the Act. Ordered accordingly.

While disposing of the writ petition in the manner indicated above, I consider it imperative to clarify that henceforth there shall be no stay on the implementation of the order impugned in the writ petition. However, this will not preclude the petitioners from filing an application before the appellate authority for condonation of delay and also for grant of stay. The department shall also be entitled to oppose the prayer for condonation of delay and/or stay on all available grounds and it is expected that the appellate authority will consider, deal with and dispose of the application(s) filed by the petitioners with great care and circumspection and after duly considering the objections which may be raised on behalf of the department.

G.S. SINGHVI, C.J.

28th June, 2006.
ARS/svs